

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al.,

Plaintiffs,

v.

**CIVIL ACTION FILE NO.:
1:17-cv-2989-AT**

BRAD RAFFENSPERGER, et al.,

Defendants.

DECLARATION OF JEANNE DUFORT

JEANNE DUFORT hereby declares, under penalty of perjury, pursuant to 28 U.S.C. §1746, that the following is true and correct:

1. My name is Jeanne Dufort.
2. This declaration supplements my declarations of September 10, 2018, June 17, 2019, December 16, 2019, January 14, 2020, March 4, 2020, August 30, 2020, and February 12, 2021. In addition, I gave live testimony in this case during the September 10, 2020 hearing on Plaintiffs' Motions for Preliminary Injunction.
3. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.
4. I am a Morgan County, Georgia voter, and have voted in Morgan County for 19 years.

5. I am a very active member of Coalition for Good Governance (“CGG”) and coordinate activities with other active members every week as we work on our volunteer projects.

6. My long-time practice is to vote in every election for which I am eligible, and I plan to vote in the future in all such elections.

7. As long as the BMD system is required for all in-person voters, my preferred method of voting will remain Absentee by Mail, because marking a ballot by hand ensures there is a permanent record of my intent that will count as the official vote and can be recounted or audited. Mail ballots are also preferable to the BMD system as mail balloting protects the secrecy of my vote.

Conversion of hand marked ballots to machine marked ballots

8. I have served on the Morgan County Vote Review Panel and Ballot Duplication Panel for most elections since 2018. One duty of the three-person bipartisan Ballot Duplication Panel is to oversee the duplication of ballots that cannot be scanned. Certain ballots need to be duplicated onto a new scannable ballot for several reasons:

- a. Some UOCAVA voters submit their ballots in a form that cannot be read by the scanner;

- b. Absentee by Mail ballots may be damaged by handling at the election office, for example when an envelope slitter tears the ballot;
- c. Some ballots arrive damaged, for example a coffee spill or tear, or USPS damage;
- d. Ballots from Election Day provisional voters who voted out of their correct precinct must be converted to the correct ballot style; or
- e. Occasionally the scanner will not accept a ballot, even though there is no discernible damage. At least 3 ballots in the 2022 General Election were in this category, including two from my precinct.

9. Prior to 2022, it was the practice of the Morgan County Election Director to have the Ballot Duplication Panel duplicate ballots with the same type of ballot as the voter originally used. With Mail Absentee ballots, the three-person bi-partisan Duplication Panel would rotate roles: one marking the new ballot by hand, one calling out the selections, and one watching. All three were required to agree the original ballot matched the duplicate ballot, for voter selection.

10. An audit trail is created by assigning and writing a number on each pair of original and duplicated ballots. This audit trail ensures the fidelity of the duplicated ballot to the voter's original record of his vote if it is required to be reviewed.

11. In 2022, the Morgan County Election Director changed the practice. She now converts hand marked Mail Ballots that require duplication to machine marked BMD ballots. Then she requires us as members of the Ballot Duplication Panel to review the machine marked BMD ballots to verify that the printed text matches the voter choices marked by hand on the original Ballot.

12. When I questioned the practice of converting hand marked ballots to QR coded ballots, the election director told me that the state has authorized the practice and it was her decision to do so. Exhibit A is a true and correct copy of the Secretary of State's instructions for the electronic duplication of certain ballots, and was obtained by CGG in response to an open records request to Cobb County.

13. I am dismayed to learn that, despite my intent to cast my votes on a hand marked paper ballot, my ballot could be converted to a machine marked BMD ballot prior to scanning and tabulation without my knowledge or consent. That subjects my vote selections to unauthorized and undetectable changes that can be caused by mis-programming or system hacking. Having the Ballot Duplication Panel merely review the accuracy of the new ballot's printed text does little to ensure that selections in the QR code that will be counted reflects the selections that I made on my hand marked mail ballot.

Ballot Secrecy

14. In my declarations on December 16, 2019 (Doc. 680-1 at 170), January 14, 2020 (Doc. 699-7), and February 12, 2021 (Doc. 1071-3), I stated my observations of local Election Directors struggling to preserve ballot secrecy while deploying the new oversized Ballot Marking Device touchscreens, conversations at local Election Board meetings about ballot secrecy, and my personal concerns with casting my vote without reasonable ballot secrecy.

15. For several years, I have been the 1st Vice Chair of the Morgan County Democrats, and coordinator of our Get out the Vote efforts.

16. It is the policy of the Democratic Party of Georgia that party officials and local Committees stay neutral about their personal candidate preferences in primary races until Primaries are finalized. If I vote in view of the public on a large touchscreen in a small county like Morgan it is effectively disclosing my candidate preferences.

17. I am careful during Primary season to keep my candidate preferences private, both because Party rule require it, and because I could not be effective in my work as a local Party leader otherwise.

18. In the past, if I had needed to vote in person, my solution to the ballot secrecy violations of BMD voting would have been to find an uncrowded time at the polling place and choose the most privately situated BMD unit. However, I

have recently become aware of Dr. Halderman's findings, called DVS Order and published at this link (<https://dvsorder.org>), which show how Dominion Precinct Scanners assign predictable numbers to the ballot data, permitting voters to be connected with their ballots in some circumstances.

19. Through Dr. Halderman's work I am aware that the Cast Vote Records created when a ballot is scanned includes a predictably sequenced ID number that, when compared to other public information such as scanner voter counts, polling place video, the daily early voting ballot issuance list, or notes taken while observing voters, makes it possible to match a ballot image with a voter. This is especially true in small counties like mine, where polling places are small, voting is steady but not intense, and many of us know one another by sight.

20. CGG obtained in response to an Open Records Act request a copy of the Cast Vote Records for the Morgan County November 2022 election. Attached as Exhibit B is a true and correct copy of a screen shot of one page of those records to demonstrate that it includes the Record ID number, the precinct, and the votes cast on each ballot. It is my understanding that I need only “un-shuffle” the record ID numbers using Dr. Halderman’s formula to have the exact order in which the ballots were cast in the scanner.

21. Voting in person, using the Georgia's current voting system, creates an unacceptable risk to me of revealing my candidate choices, which need to be private, for both my personal reasons, and to comply with the spirit of the Democratic Party rules in Morgan County and the state.

22. I am very involved in the business, cultural and political communities in Morgan County. I am well known in all of those communities in my county and try to be a leader, setting examples of active engagement in such community activities. As a result, I would much prefer to vote in person, preferably at a busy time to be seen engaging in the voting experience and enjoy doing so with my community colleagues. I would like to visit with the poll workers to thank them for their service. However, I reluctantly forgo that benefit in order to protect my ballot security and secrecy with a mail ballot, despite the inconveniences in doing so.

23. From my poll watching activities, I understand that voting in person builds social capital in a small community like mine. Participating in the ritual of voting with your neighbors is part of the fabric of small-town life. Our local Election Director helps create public awareness of elections with creative use of social media, including posting photos of various people voting on the Election Office Facebook and Twitter accounts. Georgia Secretary of State Brad

Raffensperger personally presented Morgan County Director of Elections Jennifer Doran an award for having the state's "Best Social Media" presence on Jan. 4 during the 2023 Secretary of State Training Conference on Elections Systems in Athens. I miss this opportunity to be recognized within my community as a voter, because my vote is cast by Mail Absentee.

Touchscreen Ballot Secrecy Observations

24. Based on my personal observations, county election officials do not, and in many instances cannot, follow the Secretary's guidelines of setting up polling places to prevent the violation of ballot secrecy.

25. For example, for the November 2020 in Precinct 6 – West Morgan (Morgan County), the Voting Stations were setup facing walls, in accordance with the State's suggested layout. I observed the election and watched as voters enroute to their voting station had to pass behind other voters in the act of voting, and that merely looking around to navigate the aisle safely would cause voting screens to be in their line of sight.

26. Another example is in 2022, when I served as a credentialed Poll Watcher in Morgan County both during early voting at the Election Office, and at the 5 precincts on Election Day. While Poll Watching at Precinct 4-DFACS/Health Dept during the Senate Run-off on December 6, I was seated with

other poll watchers in the designated chairs, near the tables with the Poll Pad check-in stations. The designated Voting Station for voters with disabilities was set up facing the three poll watcher chairs, in view of at least one of the Poll Pad stations. A voter came in to use the Station, and the Poll Watchers, including me, immediately realized we could view the screen clearly. The Poll Manager observed the problem, and shortly after the voter left, she turned the Voting Station 90 degrees counter clockwise (the only option available). She immediately realized that the change caused the screen to be viewable by voters arriving to check in and by the worker stationed at the scanner. She changed it back to the original setup, and asked the Poll Watchers to avert our eyes when the Station was in use. Averting our eyes to avoid seeing the touchscreen would also cause us to suspend our duties to view the room and other activities, such as monitoring machines for tampering.

27. During the same December 6, 2022 election, I observed the early voting location in Morgan County where the voting stations were set up in two rows ending in a wall, so that voters at each station would have their backs to each other while voting. Voters enroute to and from their voting station had to pass behind other voters in the act of voting, putting voting screens directly in their line of sight as they navigated the aisle.

Increased Difficulties of Voting by Mail

28. I regularly use a Mail Absentee ballot, because that is the only way to mark my ballot by hand. There are a number of additional difficulties involved in mail ballot voting compared to marking a ballot by hand during early in-person voting or on election day.

29. For example, I am over 65, and eligible to register at the beginning of each Election cycle to have my mail ballot automatically issued for every election in which I am eligible to vote. During the December 2022 run-off, the first ballot the Election Office sent was issued on November 18 according to the SOS website, but never arrived at my home. I had to go to the elections office and request a replacement ballot. While I was Poll Watching on Wednesday, November 30, the election clerk reissued my ballot. Rules required her to send the ballot to my home via the Post Office, so I had to watch her walk past me, with my ballot in her hand. Luckily the reissued ballot was delivered to my home the next day, and I was able to return it to the Election office on Friday, December 2 – the last day the drop box was open. The loss of my original ballot in the mail, the trouble of reapplying for a ballot, and the uncertainty of Postal Service delivery, are examples of the additional difficulties that I would not have if I could securely and privately mark my ballot by hand at my polling place.

30. Changes made in SB202 in 2021 requires me to put my name, address, date of birth, and driver's license on the return envelope that would carry my hand marked mail absentee ballot through the Postal Service if I used USPS to return my ballot.

31. Attached as Exhibit C is a true and correct copy of a photograph I took of my mail ballot envelope for the May 2022 election. I have purposely blurred the personally identifying information on the envelope for purposes of this submission. The design of the envelope allows others handling my ballot to see my personally identifying information without disturbing the envelope seal. I am not willing to take that risk, so I make a trip to the election office and returned my ballot in person.

32. After submitting my mail ballot, I check the status daily on the MVP site to be certain that the ballot is recorded as accepted. This is an effort not required of voters who vote in person.

Verifying a BMD Ballot

33. Attached as Exhibit D is a true and correct copy of my ballot in the May 2022 primary. The ballot included 30 contests or questions. In such an election, if I were to use a BMD to vote, and was required to verify my printout, I

would be unable to remember all 30 contests and questions without using a sample ballot with my choices pre-marked.

34. I have been a Poll Watcher in Morgan County or other counties for virtually every election since the new BMD system was introduced. There is no place provided in most polling places I have observed for a voter to privately and carefully review their printed ballot. I have rarely seen a voter use a pre-marked sample ballot or list of vote selections to compare to their BMD ballot, and I have rarely seen a voter look at their BMD ballot for more than 10 seconds.

PollPad Risks of Voting Difficulty and Disenfranchisement

35. Another reason I tolerate the expense, time and extra effort of mail ballot voting is to avoid the risk of PollPad errors that we at CGG often hear about from voters. In various public talks I have made, I have used the example of State Representative Jasmine Clark's experience when she encountered inaccurate electronic pollbook data, and had to stand her ground to avoid being disenfranchised by having to vote the wrong provisional ballot, or failing to vote altogether. Representative Clark's experience is summarized in her declaration (Doc. 296 at 173-175) and in her testimony in court. (Doc. 570 Transcript 175:22-179:11)

36. I am unwilling to take the risk of disenfranchisement from pollbook inaccuracies from cyberattacks or configuration errors or software bugs, which adds to my reasons for voting by mail ballot with all its inconveniences.

No Scanner Setting Improvement

37. I testified at the Sept 10, 2020 date Court hearing and explained my discovery, while serving on the Morgan County Vote Review Panel, of light vote marks not being detected and counted by the scanner/tabulators as I explained in my August 23, 2020 declaration (Doc. 809-6 at 6 ¶¶14-23). The discovery had been made during the June 9, 2020 election.

38. At the August 10, 2020 SEB meeting, a new rule was adopted to modify the scanner “threshold settings,” to increase the number of lightly marked votes detected and counted.

39. I served on the Vote Review Panel again for the November 3, 2020 election, and was surprised to see the very first ballot image we were asked to adjudicate included marks not detected at all by the scanner. It was clear to me that the State’s modified threshold setting did not ensure that all legal marks would be counted.

40. Attached as Exhibit E is a true and correct copy of a ballot image from the November 2020 election. CGG obtained the ballot image in response to Open

Records Request. This ballot was flagged for adjudication because of the non-qualified write-in for Sheriff (page 2).

41. The vote for Mr. McDonald for Public Service Commissioner was not detected by the scanner as a vote to be automatically counted, or flagged for adjudication, as shown on page 2-

“Public Service Commission District 4 blank vote”

Because I was aware of past problems, I insisted we check the Cast Vote Record and the decision was unanimous that voter intent was clear. The vote was counted by our adjudication action as shown by the interpreted mark texts on page 3 of the exhibit.

42. Since the Vote Review Panel only reviews ballots flagged by the system using the current settings, a vote like the one for Public Safety Commissioner would remain uncounted on a ballot with no other contest flagged. Because of my experience with uncounted votes resulting from these scanner settings, I ensure that our Vote Review Panel makes the affirmative effort to review the entire ballot for uncounted votes once a ballot is flagged for any reason. This is not part of the SOS instructions but something that we voluntarily do to try to ensure that votes are fully counted on the ballots that are flagged for our review.

43. I am not aware of any further change to the threshold settings, or changes to instruction to the county election officials since the August, 2020 change described above.

Interpreting Voter Intent

44. While serving on the Vote Review Panel for Morgan County, I have observed that some voters make corrections on their mail absentee ballots, which our panel often adjudicates. CGG obtained Morgan County ballot images in response to Open Records Request. Exhibit F is a set of three such ballot images from the November 2020 general election.

45. In the first example, the voter filled in the oval for both David Perdue and John Ossoff for US Senate, but added XX marks and “spoiled” to the Perdue vote. The tabulation system initially discarded both votes, as overvotes. The VRP decided that voter intent was clear, and removed the mark for Perdue, confirming the vote for Ossoff.

46. In the second example, the voter put check marks for both Donald Trump and Joseph Biden for President, but added “error” and initials next to the Trump check mark, and filled in the oval for Biden. The tabulation system initially

discarded both votes, as overvotes. The VRP decided that voter intent was clear, and removed the mark for Trump, confirming the vote for Biden.

47. In the third example, the voter made two types of irregular marks: consistently both filling in the oval for their preferred candidate and writing the same name into the write-in field and filling in the oval next to the hand written name. The voter also corrected their vote for Proposed Constitutional Amendment 2 – ovals next to both yes and no are filled in, but the voter crossed out no, and added “yes. Changed my mind, this is yes”. The tabulation system initially discarded all votes, as overvotes. The VRP decided that voter intent was clear in both cases, removing the write-in votes and confirming the chosen candidates, and removed the marks for “no” on the Constitutional Amendment, confirming the vote for “yes.”

48. What I have described above is consistent with instructions given to the Vote Review Panel members, that the standard to be applied is straightforward: if voter intent is clear, the vote shall be counted.

49. In the years I have been serving on the bi-partisan Vote Review Panel in Morgan County, there has not been a vote that the panel could not agree on the voter intent, nearly always unanimously. In my experience, voter intent on hand

marked paper ballots is almost always clear. Voters' attempts to make corrections are generally easy to interpret as well.

50. When I see these normal human errors on absentee ballots, I often wonder how many touchscreen errors are made by in-person voters which the voter does not catch or correct, and the ultimate machine marked vote, although clear and unambiguous, is not the voter's intent at all.

Diversion of CGG Resources

51. As I mentioned in my February 12, 2021 declaration (Doc. 1071-3 ¶¶ 5-8), I am a very active volunteer with CGG, devoting approximately 80 hours per month to the organization's election and open government related activities.

52. The time spent on this litigation and other work challenging the BMD system greatly limits my ability to perform other work for CGG. For example, I was previously very active in CGG's efforts to draft, present and propose election administration rules for formal SEB rule-making on a variety of topics. However, because of the litigation demands, our rule making proposal efforts have greatly diminished in 2022 and 2023.

53. Examples of non-litigation related work I have done in 2022, and hope in the future to be able to do more of, include:

a. Vote Accuracy Project. CGG partnered with Scrutineers, a national non-partisan online community working for fair, secure, accessible, and transparent elections in the US, through advocacy and public oversight. Attached as Exhibit G is a true and correct copy of the press release concerning the project. My fellow CGG members and I working with Scrutineers, while dedicating dozens of hours to the project, were unable to devote all the time required to help organize and analyze the initial tests, causing the rollout to be more limited than desired. The second pilot took place on January 31, 2023 in special elections, and because of the Curling case litigation demands the CGG team was even less able to give all the time that Scrutineers has asked for to help organize that pilot.

b. Greene County proposal to remake Election Board. I advised local citizens, including a current Board of Elections member, about Greene County Commissioners' proposal to change how BOER members were appointed. Other CGG members helped support this effort. Although we would like to extend this effort to other counties, this litigation consumes almost all resources.

c. SMART Elections national online forum. I represented CGG on an online gathering of Election Integrity experts from across the country, but have to decline many invitations from them and other groups to speak about CGG's Georgia work because of the requirements of our challenge to the voting system.

d. Indivisible Georgia 10. I represented CGG in a voter education presentation about the Coffee County breach of the Georgia Election system, and how citizens could demand that our elections be protected. CGG would like to update this presentation for other Indivisible groups but cannot devote the resources given the activity level in the case.

e. Broadcast interviews. –I have represented CGG multiple times on radio broadcasts, particularly on Brad Friedman’s nationally syndicated Brad Cast. The topic I discuss is election security and election dynamics in Georgia, in particular. Marilyn Marks is also a frequent guest on the show. We have both had to decline recent invitations for interviews on the show because of the litigation demands.

Executed this 7th day of February, 2023.



Jeanne Dufort